

What Is Judicial Independence? Handout 2

Do These Practices Violate Judicial Independence?

Judges are not in ivory towers. They are part of the community. Here are a series of ways the community interacts with their work. Which of these practices violate judicial independence? Should these practices be allowed or prohibited?

1. Judge Frank Toms has ruled that demonstrators must not come closer than 100 feet to women seeking counseling or abortion services at clinics. The local newspaper writes an editorial criticizing him, and people picket in front of his home.
2. At a party at the home of a friend, Margaret Warner, who is the head of a company, meets Judge Jones, who is presiding over a case in which executives of a large corporation are on trial for releasing false statements regarding the corporation's economic performance during the past year. Warner says to Jones, "I think it is very unfair the way the government is prosecuting corporate executives these days for things that are not their fault."
3. XYZ Electronics Corporation gave \$10,000 to the campaign of Judge Sanchez when he was running for office two years ago. XYZ's biggest client is Johnson Television Co., which buys parts from XYZ. The Johnson Co. comes before Judge Sanchez as a defendant in a lawsuit filed by some of its female employees for sexual harassment.
4. Certain state legislators are very upset by a recent written decision by the state Supreme Court's Chief Judge. They threaten to cut the budget of the Court next year.
5. The state Supreme Court does not like the decision of a trial court in the state that allowed vouchers to be used to pay for private and parochial schools. The state Supreme Court reverses the decision on the grounds that it violated the state constitution's clause calling for separation of state and church. Is this an abuse of judicial independence?
6. A judge has been known to have an alcohol problem and sometimes drinks at lunch and then presides over the court in the afternoon. His case is referred to a Commission on Judicial Discipline in the state.
7. The U.S. Supreme Court has held that burning the American flag, if performed as a political statement (e.g., to protest a war), is not a crime but an act protected by the freedom of speech clause in First Amendment. Members of Congress introduce a law that says the Court can no longer review flag-burning cases.